IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI SOUTHERN DIVISION

DOMINIC OVELLA	§	PLAINTIFF/
	§	COUNTER-DEFENDANT
	§	
V.	§	CAUSE NO. 1:10CV285 LG-RHW
	§	
B&C CONSTRUCTION AND	§	
EQUIPMENT, LLC, COLIE	§	DEFENDANTS/
DONALDSON, COBY DONALDSON,	§	COUNTER-CLAIMANTS/
BETH ANNE DONALDSON, ALLEN	U	THIRD-PARTY PLAINTIFFS
YOUNG, and YOUNG ENGINEERIN	U	
SERVICES	8	
3	8	
v.	8	
**	8	
KATHLEEN OVELLA	8	THIRD-PARTY DEFENDANT/
KATHLEEN OVELLA	8	
	8	COUNTER-CLAIMANT

ORDER ADOPTING PROPOSED FINDINGS OF FACT AND RECOMMENDATION

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [272] of United States Magistrate Judge Robert H. Walker entered in this cause on August 5, 2011. Judge Walker reviewed two motions [186, 194] regarding the timeliness and reliability of expert reports by Kifayat Khan and Michael LeBatard. He concluded that: 1) Dominic and Kathleen Ovella should be allowed to re-depose Khan and LeBatard regarding the opinions contained in the reports served on April 1, 2011; 2) LeBatard's testimony should be limited to his opinions regarding architecture; and 3) Khan's expert testimony should be allowed, subject to objection regarding his use of NDS. The parties have advised the Court they have no objection to the Magistrate Judge's findings or conclusions. Having reviewed the Proposed Findings of Fact and Recommendation and the record in this case, the Court finds the

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Magistrate Judge's conclusions neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Proposed

Findings of Fact and Recommendation [272] of United States Magistrate Judge Robert

H. Walker entered in this cause on August 5, 2011, should be, and the same hereby is,

adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Motion [186] to

Strike Untimely Expert Reports and Testimony of Khan and LeBatard is **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that discovery is re-opened

for the limited purpose of allowing Dominic and Kathleen Ovella to re-depose Khan

and LeBatard regarding the opinions contained in the reports served on April 1, 2011.

IT IS FURTHER ORDERED AND ADJUDGED that the Motion [194] to

Exclude is GRANTED to the extent that LeBatard's testimony is limited to his

opinions regarding architecture, and **DENIED** with respect to Khan's testimony;

however, subject to re-urging with respect to his use of NDS.

SO ORDERED AND ADJUDGED this the 19th day of August, 2011.

LOUIS GUIROLA, JR.

CHIEF U.S. DISTRICT JUDGE

st Louis Guirola, Jr.

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